Headquarters U.S. Air Force

Integrity - Service - Excellence

LEGAL 201
Closing and Post-closing
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AFHPCE (SAF/GCN-RPO)

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Overview

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  - Closing Process
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  - Dispute Resolution
  - Default / Termination

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Notifications

Notifications

- **Notification to Apparent Successful Offeror**
- **Congressional Notification of Intent to Award**
- **Notice of Intent to Transfer Funds**

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Pre-closing

Pre-closing

- **PSC convenes teleconference with program staff**
- **PSC convenes teleconference with legal staffs**
- **Develops telephone/contact lists of participants on both teams & circulates**

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Pre-closing, cont.

- **PSC develops timetable of deliverables & circulates**
- **Weekly teleconferences with both groups on progress of documents led by PSC**
  - **Address progress & legal issues – exchange documents**
  - **PSC or its legal counsel to retain document control**
  - **Program group addresses practical issues, attached plans & transition issues**

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Pre-closing, cont.

- **May become more frequent than weekly as closing approaches**
- **Determine closing schedule, accommodations and arrangements**

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Closing Overview

Closing Overview

- Working sessions
  - Not Christmas morning
- Who attends?
  - Legal – AFCEE (1 or 2), Legal Assistant, MAJCOM (invited but sometimes don’t play), Installation (AFCEE recommends SJA), PSC lawyer

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Closing Overview, cont.

- **Program – AFCEE, MAJCOM & Installation PMs, Installation Housing Office representative, AFCEE FM rep, PSC (generally two plus assistant)**
- **Set the Ground Rules up front**

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Closing Overview, cont.

- **Where?**
  - **Location**
    - **Generally at lender's counsel offices**
  - **Facilities**
    - **AF needs two conference rooms – 1 for legal, 1 for program. Additionally, PSC will have office and another office is available for privacy. Large conference room also available for document assembly and execution**

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Closing Overview, cont.

- **When & How Long?**
  - **If counsel/developer are familiar with process and documents are in good order before arrival, three full days is the minimum**
  - **Food generally brought in to accommodate working through into the nights**

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Closing Process

- **Closing process**
  - **Establish document control mechanism**
    - **AF documents**
    - **Lender documents**
    - **Developer documents**
  - **Ensure that latest drafts of all documents are available on host's system for word processing**

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Closing Process, cont.

- **Exhibits!!!!**
- **AF delivers signature pages & opinion**
- **Opinion letters delivered**
- **Execution and recordation**
  - **Title insurance rep takes recordable documents to record in county where installation located**

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Closing Process, cont.

- **Execution and recordation (continued)**
  - **AF takes hard copy of executed but unrecorded documents (or electronic copies of unexecuted final documents)**
  - **Once recordation has occurred, funding (if any) occurs by wire transfer**

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Post Closing

Post Closing

- **PSC gathers recorded documents with recording data, together with complete closing document set, indexes, assembles and transmits to parties as required (four sets to AF plus searchable electronic)**
- **Originals handled as set out in closing checklist**
- **AFCEE reviews for compliance before directing payment to PSC**

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Document Modification

- **Document Modifications**
  - **All material changes currently require SAF/IEI approval**
  - **AFCEE and SAF/GCN-RPO represent SAF/IEI and must coordinate on all changes**

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Authorities

- Existing Installation Commander Authorities
  - Security, safety, etc.
- SAF/IEI Delegated Authorities
  - Project Documents
    - Lease of Property, Operating Agreement and Management Plans
    - Lockbox Agreement
  - AFI 32-6007
    - AF-wide delegations
  - Delegation letter to MAJCOM

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Dispute Resolution

- Dispute Resolution
  - Management Review Committee
    - Informal resolution of issues relating to
      - Routine facility operations
      - Quality of service
      - Housekeeping
      - Safety/security
      - Other administrative issues
  - Lease (Condition 24 Disputes)
    - Disputes </=$10k
    - Disputes > $10k appealable to SAF

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Default / Termination

- Lease (Condition 7 Default and Termination)
  - Grounds for default
    - Failure to comply with any lease provision after notice
    - e.g. Project owner bankruptcy
  - Grounds for termination
    - Failure of parties to agree on final plans
    - Default and failure to cure
    - Extensive damage or destruction of improvements

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Default / Termination, cont.

- **Default/Termination is the Big Hammer, but we suggest only use it when all else fails!**

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Questions

Questions?

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